

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. In April 2002, pursuant to Reach Up regulations and policy, the Department referred the petitioner to the Division

of Vocational Rehabilitation (VR) to develop and implement an Individual Plan for Employment (IPE). At a meeting with his VR counselor on April 18, 2002, the petitioner agreed to a written IPE that included several assessment, counseling, educational, and training components. These included regular meetings with a business plan expert and a financial planner with the goal of the petitioner becoming self-employed as a manufacturer of car and utility trailers. The plan also called for the petitioner to receive tutoring toward his GED.

3. Over the next several months the petitioner failed to follow through on most of the meetings with his business and financial counselors and had failed to pursue his GED. As a result, on August 30, 2002 his VR counselor sent him a letter requiring him to attend 16 workshops held by VR with the goal of preparing him to find and maintain employment.

4. At no time did the petitioner request a meeting with his VR counselor or file an appeal to protest the appropriateness of this course of action.

5. The petitioner attended the first scheduled class on September 17, 2002. After the class he called his VR counselor to work out some transportation problems. The petitioner does not maintain that VR failed to address his transportation concerns at that time.

6. The petitioner attended the next scheduled class on September 19, 2002. He then failed to attend the next two classes that were held on September 24 and 26, 2002 and did not call his counselor to notify her of or to explain his absences. His VR counselor called the petitioner's house on September 26 and left a recorded message for the petitioner to call her back.

7. The petitioner did not contact his VR counselor and did not attend the next scheduled meeting on October 1, 2002. At that time the petitioner's VR counselor notified the Department of PATH that the petitioner had failed to comply with Reach Up requirements.

8. On October 11, 2002 the Department sent the petitioner a notice that effective November 1, 2002, his RUFA benefits would be reduced by \$75 as a sanction for his noncompliance with Reach Up.

9. At the hearing, held on October 28, 2002, the petitioner vaguely alluded to continuing transportation problems and illnesses in his family. He admitted, however, that he did not timely inform VR of these problems, even though he knew he was required to do so. He also admitted he "just forgot" some appointments. He stated that he is pursuing self-employment on his own and that lately he has

been distracted by problems with his landlord. Nothing in his testimony or demeanor, however, suggested that anything other than malingering was the primary cause of his noncompliance.

10. Based on the testimony of the petitioner and his VR counselor it is found that the petitioner has repeatedly failed without good cause to participate in Reach Up activities as reasonably arranged and directed by his VR counselor.

ORDER

The Department's decision is affirmed.

REASONS

Included in the "types of noncompliance" in the Reach Up regulations is the failure or refusal to "attend or participate fully in (Reach Up) activities." W.A.M. § 2370.1. Section 2372 of the regulations provides: "If a participating adult, including a minor parent, fails to comply with services component requirements, the department shall impose a fiscal sanction by reducing the financial assistance grant of the sanctioned adult's family." The regulations further provide that the conciliation process is not available to individuals who have had two other conciliated disputes within the last

five years. W.A.M. § 2371. The initial (i.e., the first three months) sanction amount is \$75 a month.

At the hearing in this matter (on October 28, 2002) the Department informed the petitioner that under the regulations he can "cure" the above sanction by complying with all applicable service components for a period of two consecutive weeks. (See W.A.M. § 2373.12.) Because of his request for fair hearing, the Department has not yet implemented the above sanction, which had been set to begin on November 1. Therefore, it is entirely possible that the petitioner could limit the length of the sanction or avoid it altogether. It is hoped that he will take advantage of this provision in the regulations. However, inasmuch as the Department's decision in this matter was in accord with the pertinent regulations, it must be affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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